

REMARKS

Claims 1 and 20-24 are pending in this application. Each of these claims has been finally rejected for the reasons discussed in the Office Action mailed January 10, 2005. In view of the remarks presented below, Applicants respectfully request reconsideration and allowance of Claims 1 and 20-24.

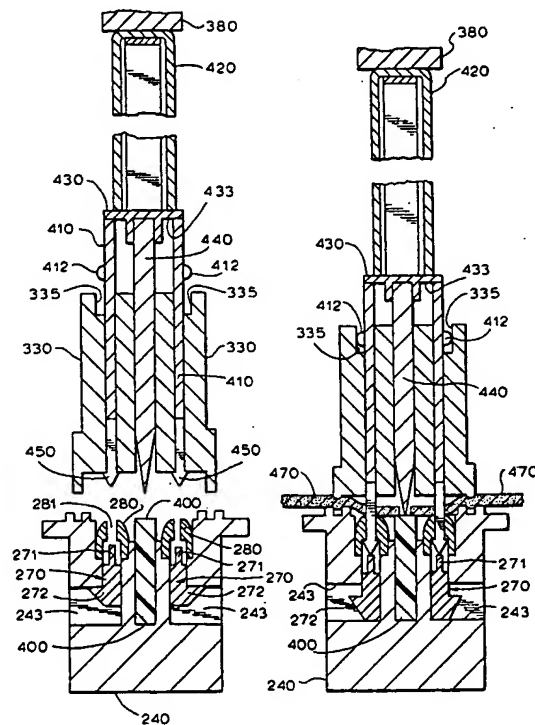
Applicants would like to thank Examiners Chukwurah and Rada for their time and consideration extended to Applicants representatives Brian Lefort, Esq. and Chris Trainor, Esq. during the telephone interview conducted on April 27, 2005. During the interview, U.S. Patent No. 5,100,042 to Gravener et al. ("042 patent") was discussed in detail. More specifically, Applicants representative argued that the '042 patent failed to disclose or suggest a surgical stapling device including, inter alia, "a stiffener plate...configured to fit substantially within the channel [defined by the anvil] and providing added strength to the anvil assembly to permit reduction in size of the head portion" as recited in Claim 1. Applicants pointed out to Examiners Rada and Chukwurah that the "stiffener plate (400)" identified by Examiner Chukwurah in the final Office Action is actually a block or backstop 400 for a cutting edge of a knife and there is no disclosure whatsoever in the '042 patent that the block 400 provides any added strength to the anvil assembly or would permit a reduction in size of the head portion of the apparatus disclosed in the '042 patent. Although no agreement was reached during the interview, the Examiners agreed to reconsider the pending rejections upon submission of a formal response.

In the final Office Action, Claims 1 and 20-24 were rejected under 35 U.S.C. § 102 (b) as being anticipated by the '042 patent. The Examiner asserts that the '042 patent discloses a surgical device including anvil having a plurality of staple forming pockets and a channel

defined by anvil (270) for receiving a stiffener plate (400). Applicants respectfully disagree with the Examiner's assertion. In contrast to the Examiner's assertion, the '042 patent discloses a surgical stapling apparatus for applying two-part fasteners to body tissue which includes an anvil block 400. Anvil block 400 is not a stiffener plate as asserted by the Examiner. Rather, anvil block 400 "provides a means for contacting tissue" and "a backstop surface 401 for the cutting edge 441 of the knife" of the surgical device (Column 9, lines 29-36). Actuating the surgical stapling apparatus moves a fastener portion 450 into engagement with the retainer 280 and knife 440 into contact with block 400 (see FIGS. 14 and 15 reproduced below).

FIG. 14

FIG. 15



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Claim 1 recites a surgical stapling device having, *inter alia*, an anvil assembly including “an anvil and a stiffener plate, the anvil including a plurality of staple forming pockets and defining a channel, the stiffener plate being configured to fit substantially within the channel and providing added strength to the anvil assembly to permit a reduction in size of the head portion.” There is no disclosure in the '042 patent of any such structure. More specifically, there is no disclosure of a stiffener plate anywhere in the '042 patent which is configured to fit substantially within a channel in the anvil assembly to provide added strength to the anvil assembly as recited in Claim 1. Block 400 identified by the Examiner as “stiffener plate (400)” is merely a backstop for a cutting edge of a knife.¹

In view of the foregoing remarks, it is respectfully submitted that all claims pending in the application, namely Claims 1 and 20-24, are in condition for allowance. Should the Examiner desire a telephonic interview to resolve any outstanding matters, he is sincerely invited to contact the undersigned at (631) 501-5700.

Respectfully submitted,

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¹ It is noted that backstops in surgical staplers are typically formed at least partly of a material penetrable by a knife to effect dissection of tissue. As such, the Examiners implication during the interview that block 400 would inherently provide added strength to anvil assembly 240 is incorrect.